

**STATE OF NEW JERSEY**

*Board of Public Utilities*

*Two Gateway Center*

*Newark, NJ 07102*

[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION FOR AN )  
ORDER AUTHORIZING CYPRESS )  
COMMUNICATIONS OPERATING COMPANY )  
INC. TO PROVIDE LOCAL EXCHANGE AND )  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES THROUGHOUT NEW JERSEY )

**ORDER OF APPROVAL**

DOCKET NO. TE00060418

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and, by letter dated June 15, 2000, Cypress Communications Operating Company, Inc. ("Petitioner" or "Cypress") filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

Cypress was incorporated under the laws of the State of Delaware on April 6, 2000. Petitioner's principal offices are located at 15 Piedmont Center, 3575 Piedmont Road, Suite 100, Atlanta, Georgia 30305.

Petitioner has submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, Cypress was formed to provide all forms of facility-based local exchange and interexchange telecommunication services. Petitioner stated that it is currently authorized to provide resold local exchange service in New Jersey as well as Alabama, California, Colorado, Delaware, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New York, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and Washington D.C. Petitioner is also authorized to provide local facilities - based services in Colorado, Florida, Maryland, Massachusetts, Oregon, Pennsylvania, Virginia, and Washington. In addition, the Petitioner is authorized to provide resold long distance service in New Jersey as well as, Alabama, California, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New York, North Carolina, Ohio,

Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, Washington D.C. and Wisconsin. Petitioner is also authorized to provide long distance facilities - based services in Maryland and Washington D. C. To date no complaints have been filed against Cypress. Cypress states that it has not been denied authority to provide telecommunications services in any state. Cypress stated that it is not currently negotiating any interconnection agreements.

In its Petition, Petitioner seeks authority to offer local exchange and interexchange telecommunications services to business customers throughout New Jersey. Cypress intends to provide the following categories of Local Exchange Access services: basic business lines, analog private branch exchange trunks (PBX), analog direct inward dial (DID) and digital PBX and DID services. Cypress also intends to offer the following Local Exchange Usage services to its local exchange access services: direct dial calling, toll free calling and emergency 911 services. Cypress interexchange service will include, but not limited to, switched inbound and outbound calling, dedicated inbound and outbound calling, long distance directory assistance and calling card services. Cypress intends to provide services on a resold basis until such time as Cypress can deploy its own facilities in the State of New Jersey.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3, 14:10-1.16 and N.J.S.A. 48:3-7.8 which requires that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requests, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner also requests permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Atlanta, Georgia. Petitioner also states that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner states that approval of its petition will enhance the telecommunication infrastructure in the State of New Jersey and will facilitate economic development.

With regard to its technical and managerial qualifications, Cypress states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner submitted the professional biographies of its key personnel who, according to Cypress, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

Petitioner has submitted, as evidence of its financial qualifications, a copy of the most recent financial statements of the corporation and will be required to provide two years pro forma income statements and balance sheets for its New Jersey operations only prior to approval of its tariff.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat.56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Cypress' Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariff and the submission of pro forma financial statements. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 AND 48:2-60, the Petitioner is subject to an annual assessment by the Board. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements i.e., balance sheet, income statement, and statement of change in cash flow and statement of change in equity, have been provided.

The Board HEREBY DIRECTS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16.3 Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Telecommunications, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to

report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenue from operations form is due on or before March 31 and June 1, respectively. If Petitioner does not receive these documents, it is Petitioner's duty and responsibility to make an inquiry at the Board and obtain these documents. It is Petitioner's duty and responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 12/19/02

BOARD OF PUBLIC UTILITIES  
BY:

(SIGNED)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(SIGNED)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(SIGNED)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(SIGNED)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

ATTEST:

(SIGNED)

(SIGNED)  
KRISTI IZZO  
SECRETARY

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING  
CYPRESS COMMUNICATIONS OPERATING COMPANY INC.  
TO PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT NEW JERSEY  
DOCKET NO. TE00060418

**SERVICE LIST**

<b>Serial No.</b>	<b>Name and Address</b>	<b>Serial No.</b>	<b>Name and Address</b>
<b>1</b>	<b>Petitioner's Contact Person:</b> Robert W. McCarthy V. P., General Counsel, & Assistant Secretary Cypress Communication Operating Company Inc. C/O Cypress Communication Inc. 15 Piedmont Center, Suite 100 Atlanta GA., 30305	<b>5</b>	<b>Board's Staff:</b> Walter P. Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey, 07102
<b>2</b>	<b>Petitioner's Attorney:</b> Russell M. Blau Swidler Berlin Shereff Friedman LLP 3000 K Street, NW Suite 300 Washington DC 20007-5116	<b>6</b>	<b>Board's Staff:</b> Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
<b>3</b>	<b>Ratepayers Advocate:</b> Seema M. Singh, Esquire Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 <sup>th</sup> Floor P.O. Box 46005 Newark, New Jersey 07101	<b>7</b>	<b>Board's Staff:</b> James F. Murphy, Chief Bureau of Revenue Requirements Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
<b>4</b>	<b>Ratepayers Advocate:</b> Ava-Marie Madeam, Esquire Division of Ratepayer Advocate 31 Clinton Street, 11 <sup>th</sup> Floor P.O. Box 46005 Newark, New Jersey 07101	<b>8</b>	<b>Board's Staff - DAG:</b> Peter Tanella Department of Law & Public Safety Division of Law 124 Halsey Street, 5 <sup>th</sup> Floor P.O. Box 45029 Newark, New Jersey 07102